

IC 22-4-29

Chapter 29. Collection of Contributions, Interest, and Penalties

IC 22-4-29-1

Delinquent contributions; interest and penalties

Sec. 1. (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one percent (1%) per month or fraction thereof from and after such date until payment, plus accrued interest, is received by the department. The board may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue.

(b) If the failure to pay any part or all of the delinquent contributions is due to negligence or intentional disregard of authorized rules, regulations, or notices, but without intent to defraud, there shall be added, as a penalty, ten percent (10%) of the total amount of contributions unpaid, which penalty shall become due and payable upon notice and demand by the commissioner.

(c) If the commissioner finds that the failure to pay any part or all of delinquent contributions is due to fraud with intent to evade the payment of contributions, there shall be added, as a penalty, fifty percent (50%) of the total amount of delinquent contributions, which penalty shall become due and payable upon notice and demand by the commissioner.

(d) Interest and penalties collected pursuant to this section shall be paid into the special employment and training services fund.

(Formerly: Acts 1947, c.208, s.3001.) As amended by P.L.228-1983, SEC.5; P.L.18-1987, SEC.75; P.L.21-1995, SEC.110.

IC 22-4-29-2

Assessments; limitation

Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, skills 2016 training assessments under IC 22-4-10.5-3, or penalties as required by this article, or for additional contributions and skills 2016 training assessments due and unpaid, which assessment is considered prima facie correct. Such assessments shall consist of contributions, skills 2016 training assessments under IC 22-4-10.5-3, and any interest or penalties which may be due by reason of section 1 of this chapter, or the skills 2016 training assessment and interest due under IC 22-4-10.5. Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, skills 2016 training assessments, interest, or penalties would have become due, except that this limitation shall not apply to any contributions, skills 2016 training assessments, interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

(Formerly: Acts 1947, c.208, s.3002.) As amended by P.L.144-1986,

SEC.129; P.L.18-1987, SEC.76; P.L.21-1995, SEC.111; P.L.290-2001, SEC.21.

IC 22-4-29-3

Assessments; notice

Sec. 3. The commissioner, or the commissioner's duly authorized representative, shall immediately notify the employing unit of the assessment in writing by mail, and such assessment shall be final unless the employing unit protests such assessment within fifteen (15) days after the mailing of the notice.

(Formerly: Acts 1947, c.208, s.3003.) As amended by P.L.20-1986, SEC.14; P.L.18-1987, SEC.77; P.L.21-1995, SEC.112.

IC 22-4-29-4

Assessments; protest; hearings

Sec. 4. If the employing unit protests such assessment, upon written request it shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to the provisions of IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability administrative law judge shall immediately notify the employing unit in writing of the finding, and the assessment, if any, so made shall be final, in the absence of judicial review proceedings as provided in this article, fifteen (15) days after such notice is issued.

(Formerly: Acts 1947, c.208, s.3004; Acts 1951, c.295, s.17.) As amended by P.L.144-1986, SEC.130; P.L.18-1987, SEC.78; P.L.135-1990, SEC.20.

IC 22-4-29-5

Assessments; judicial review; stay of proceedings

Sec. 5. The finality of such decision of the liability administrative law judge may be stayed for a period of thirty (30) days from the date of service of notice on the board of intention to seek a judicial review of said decision as provided in this article, provided such notice is served within fifteen (15) days after notice of the decision of the liability administrative law judge is issued. If judicial review proceedings are not instituted within the time provided for in this article, the finality of said decision shall not be further stayed.

(Formerly: Acts 1947, c.208, s.3005.) As amended by P.L.144-1986, SEC.131; P.L.135-1990, SEC.21.

IC 22-4-29-6

Assessments; nonpayment; warrants; levy; garnishment; lien

Sec. 6. (a) Unless an assessment is paid in full within seven (7) days after it becomes final, the commissioner or the commissioner's representative may file with the clerk of the circuit court of any county in the state a warrant in duplicate, directed to the sheriff of such county, commanding the sheriff to levy upon and sell the property, real and personal, tangible and intangible, of the employing unit against whom the assessment has been made, in sufficient

quantity to satisfy the amount thereof, plus damages to the amount of ten percent (10%) of such assessment, which shall be in addition to the penalties prescribed in this article for delinquent payment, and in addition to the interest at the rate of one percent (1%) per month upon the unpaid contribution from the date it was due, to the date of payment of the warrant, and in addition to all costs incident to the recording and execution thereof. The remedies by garnishment and proceedings supplementary to execution as provided by law shall be available to the board to effectuate the purposes of this chapter. Within five (5) days after receipt of a warrant under this section, the clerk shall:

- (1) retain the duplicate copy of the warrant;
- (2) enter in the judgment record in the column for judgment debtors the name of the employing unit stated in the warrant, or if the employing unit is a partnership, the names of the partners;
- (3) enter the amount sought by the warrant;
- (4) enter the date the warrant was received; and
- (5) certify the original warrant and return it to the department.

(b) Five (5) days after the clerk receives a warrant under subsection (a), the amount sought in the warrant, the damages to an amount of ten percent (10%) of the assessment as provided in subsection (a), penalties, and interest described in subsection (a), become a lien upon the title to and interest in the real and personal property of the employing unit.

(Formerly: Acts 1947, c.208, s.3006.) As amended by P.L.20-1986, SEC.15; P.L.18-1987, SEC.79; P.L.21-1995, SEC.113; P.L.52-1998, SEC.2.

IC 22-4-29-7

Assessments; issuance of warrant to sheriff

Sec. 7. The clerk shall return the original, certified copy of the warrant to the department together with all recording information concerning the warrant. Upon receipt of the warrant from the clerk, the department shall issue the warrant to the sheriff of the county.

(Formerly: Acts 1947, c.208, s.3007.) As amended by P.L.21-1995, SEC.114; P.L.52-1998, SEC.3.

IC 22-4-29-8

Assessments; warrants; return; fees and costs

Sec. 8. (a) If the clerk fails to record the warrant and issue the same to the department within five (5) days after it has been received by the clerk as herein provided, the clerk shall forfeit to the state for each such failure the sum of twenty dollars (\$20), which shall be deposited in the unemployment insurance benefit fund.

(b) Within one hundred twenty (120) days from the date of receipt of the warrant (or immediately after service if the warrant is fully satisfied or found to be wholly uncollectible) the sheriff shall return it to the department, together with the money collected, less fees and costs.

(c) "Costs" as referred to in this subsection includes the fees of

the clerk and sheriff as are specifically provided for and costs of storage, appraisal, publication, and other necessary and properly chargeable expenses incurred in the sale of property on execution. The costs herein specifically prescribed for the clerk and sheriff shall be as follows:

(1) Clerk's fee of three dollars (\$3) to be charged on the warrant and paid to the clerk for recording the warrant.

(2) Sheriff's fee of:

(A) six dollars (\$6) to be charged on the warrant and paid to the sheriff in every instance in which the warrant has been duly and properly served and the schedules and affidavits hereinafter provided for have been executed and signed; or
(B) ten dollars (\$10) for sale of property on execution or decree, including making a deed or certificate of sale, to be charged on the warrant.

(Formerly: Acts 1947, c.208, s.3008; Acts 1951, c.295, s.18; Acts 1969, c.300, s.7.) As amended by P.L.18-1987, SEC.80; P.L.21-1995, SEC.115; P.L.52-1998, SEC.4.

IC 22-4-29-9

Assessments; fees and costs; collection; disposition

Sec. 9. (a) The fees and charges provided in section 8 of this chapter for the clerk and sheriff shall be the property of the clerk and sheriff, and, excepting additional payments to the sheriff provided for in this section, shall be the only fees and charges payable for their services relating to the warrants herein and shall be in lieu of all fees and charges provided for in other statutes for services relating to recording and serving of warrants and levying of executions, whether such other statutes relate to clerks, sheriffs, governmental units, or subdivisions thereof. Such costs shall be charged against the employing unit and collected from it by the sheriff.

(b) In case the amount collected is sufficient to satisfy the entire amount of the warrant and all costs thereon, the sheriff shall retain an amount equal to ten percent (10%) of the assessment in addition to the fees provided in section 8 of this chapter. If such amount is not collected in full, the sheriff shall retain an amount equal to five percent (5%) of the amount collected.

(c) However, in instances wherein the sheriff makes no collection upon a warrant and it has been returned to the department as uncollectible and the warrant is thereafter paid voluntarily in whole or in part by the employing unit to the clerk or to the department, the sheriff shall not be entitled to either of the payments mentioned in subsection (b), and the damages assessed in the warrant shall be deposited in the unemployment insurance benefit fund.

(Formerly: Acts 1947, c.208, s.3009.) As amended by P.L.18-1987, SEC.81; P.L.21-1995, SEC.116.

IC 22-4-29-10

Assessments; return; subsequent warrants; fees; attempts to collect

Sec. 10. (a) The return by the sheriff to the department of the

warrants shall be made monthly on or before the fifth day of the month. All money so returned to the department shall be receipted for by the department and its endorsement upon the check transmitted by the sheriff shall be conclusive evidence of such payment by the sheriff and no other receipt shall be necessary.

(b) If a warrant is not satisfied within the one hundred twenty (120) days specified in section 8 of this chapter, nothing herein shall operate to prevent the department from issuing subsequent warrants upon the identical amount of the unpaid assessment. Subsequent warrants shall not be recorded by the clerk, and no fees shall be chargeable by the clerk. Upon any subsequent warrant, the sheriff shall be entitled to a sum for mileage equal to that sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile, but shall not be entitled to any other fee if the same has been paid the sheriff for services upon the original warrant, except that in case collection is made in part or in full with respect to any such subsequent warrant, the sheriff is entitled to the five percent (5%) or ten percent (10%) as provided in section 9(b) of this chapter.

(c) In every instance in which the sheriff shall return any warrant unsatisfied, the sheriff shall attach to the warrant a summary of all relative information regarding the attempts to collect the warrant and the reason the warrant is being returned unsatisfied.

(Formerly: Acts 1947, c.208, s.3010; Acts 1975, P.L.15, SEC.30.) As amended by P.L.18-1987, SEC.82; P.L.21-1995, SEC.117; P.L.52-1998, SEC.5.

IC 22-4-29-11

Assessments; failure to locate employing unit

Sec. 11. In the event the sheriff is unable to locate the employing unit after diligent search, the sheriff shall file with the department a statement sworn to by the sheriff that a diligent search has been made and the employing unit cannot be located within the sheriff's bailiwick.

(Formerly: Acts 1947, c.208, s.3011.) As amended by Acts 1978, P.L.2, SEC.2218; P.L.18-1987, SEC.83; P.L.52-1998, SEC.6.

IC 22-4-29-12

Applicability of exemption laws for relief of debtors

Sec. 12. The liability for any contributions, skills 2016 training assessments, interest, penalties, and damages imposed by this chapter, or costs incidental to execution of warrants, shall not be subject to any of the provisions of the exemption laws of the state of Indiana for the relief of debtors.

(Formerly: Acts 1947, c.208, s.3012.) As amended by P.L.131-1983, SEC.5; P.L.52-1998, SEC.7; P.L.290-2001, SEC.22.

IC 22-4-29-13

Notices

Sec. 13. (a) This section applies to notices given under sections 3,

4, and 5 of this chapter.

(b) As used in this section, "notices" includes mailings of assessments, notice of intention to seek judicial review, and warrants.

(c) If a notice is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

As added by P.L.135-1990, SEC.22.